

Congress of the United States
Washington, DC 20515

October 15, 2020

The Honorable William Barr
Attorney General of the United States
U.S. Department of Justice
950 Pennsylvania Ave. NW
Washington, D.C. 20530

Dear Attorney General Barr:

We write today to express our deep concern regarding recent alarming reports suggesting that Purdue Pharma, the maker of OxyContin, and members of the Sackler family are nearing a plea agreement with the Department of Justice (DOJ), which would foreclose any federal criminal liability without a single person serving a single day in prison. Purdue and the Sackler family perpetrated one of the most egregious criminal acts in American history. They intentionally addicted millions of unsuspecting people to powerful painkillers for profit, and their actions have directly contributed to the deaths of tens of thousands of Americans.

It has now been widely acknowledged by a multitude of state and federal prosecutors that Purdue Pharma and its Sackler family owners engaged in a decades-long scheme to enrich themselves by hooking Americans on extremely addictive painkillers by fraudulently minimizing the true risk of addiction to doctors and patients. This criminal scheme was not only ambitious in scope, it was breathtakingly successful. While millions of Americans struggled to cope with the effects of opioid addiction and the overdose deaths caused by Purdue's fraudulent marketing strategy, the company generated an estimated \$30 billion in OxyContin sales and the Sacklers became one of the richest families in America. Our country continues to face the consequences of their actions today and recent evidence suggests that the COVID-19 pandemic may be intensifying the opioid epidemic that Purdue started.

But it did not have to be this way. In 2007, prosecutors at the Department of Justice knew the full extent of Purdue's depraved criminal enterprise and detailed the reasons why three top Purdue executives should be indicted on numerous felonies in a 120-page memo. But instead of fully prosecuting those crimes, DOJ opted to settle with Purdue in exchange for the equivalent of less than 6 months' worth of OxyContin sales and the three executives' guilty pleas to misdemeanors.

During a Senate hearing on the adequacy of the Department's 2007 settlement with Purdue, then-Republican senator from Pennsylvania, Arlen Specter stated:

“...if there is reason to believe that it is a dangerous instrumentality and that deaths will occur and deaths do occur, that supports a homicide prosecution. And it is not deterred by a fine.

I see fines with some frequency and think that they are expensive licenses for criminal misconduct. I do not know whether that applies in this case, but a jail sentence is a

deterrent and a fine is not--not a corporate fine in the context of the kind of profits which are involved here.”¹

Unfortunately, Senator Specter’s words proved prophetic. The same year that DOJ granted Purdue an “expensive license for criminal misconduct,” 18,515 Americans died from an opioid-related overdose. According to the most recent data from the Centers for Disease Control, that death count climbed to 46,802 in 2018.²

We cannot help but wonder how many of those lives could have been saved had your predecessors in the Department imposed a true deterrent by prosecuting Purdue and the Sackler family to the fullest extent of the law in 2007. Instead, the documents unearthed in that case, including your Department’s prosecution memo, were buried and it took another decade before the American people learned the full extent of Purdue’s efforts to intentionally create an opioid epidemic for profit. During that time, Purdue continued their fraudulent activities, they expanded the epidemic to a global market,³ and the Sacklers siphoned off billions of dollars into offshore bank accounts to ensure that they would still walk away as billionaires when their criminal enterprise finally came crumbling down.

Millions of American families impacted by the opioid epidemic are looking to you and your Department for justice. Justice for the sleepless nights spent worrying about sons and daughters trapped in the grip of substance use disorder, justice for the jobs lost and the lives ruined, and justice for the lives of loved ones lost to overdoses. If the only practical consequence of your Department’s investigation is that a handful of billionaires are made slightly less rich, we fear that the American people will lose faith in the ability of the Department to provide accountability and equal justice under the law.

We are further concerned by the ongoing discrepancy between the “justice” billionaires receive versus the countless people of color whose lives have been ruined by the way the federal government penalizes drug use. The federal prison population has risen nearly 800% since 1980 in large part due to the proliferation of mandatory minimum sentences for nonviolent drug offenses that have had a profound and disproportionate impact on Black and Latino communities. Meanwhile, a settlement like the one reportedly being considered by your Department would allow a group of people who deliberately designed and marketed an addictive drug and caused the deaths of thousands of Americans to get off scot-free once again.

In order to avoid this outcome, we urge you to do all you can to ensure that any potential settlement with Purdue and members of the Sackler family:

1. Is made public and viewable by the American people in its entirety;

¹Arlen Specter (PA). “Evaluating the Propriety and Adequacy of the OxyContin Criminal Settlement.” *Congressional Record* Senate Hearing 110-479 (July 31, 2007). <https://www.govinfo.gov/content/pkg/CHRG-110shrg40884/html/CHRG-110shrg40884.htm>

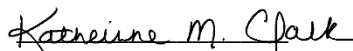
² National Center for Health Statistics at the Centers for Disease Control and Prevention. [https://www.drugabuse.gov/drug-topics/trends-statistics/overdose-death-rates#:~:text=Drug%20overdose%20deaths%20involving%20any%20opioid%E2%80%95prescription%20opioids%20\(including%20methadone,among%20males%20\(Figure%203\).](https://www.drugabuse.gov/drug-topics/trends-statistics/overdose-death-rates#:~:text=Drug%20overdose%20deaths%20involving%20any%20opioid%E2%80%95prescription%20opioids%20(including%20methadone,among%20males%20(Figure%203).)


³ Katherine Clark and Hal Rogers. “Corrupting Influence: Purdue & the WHO.” (May 22, 2019). https://katherineclark.house.gov/_cache/files/a/a/aaa7536a-6db3-4192-b943-364e7c599d10/818172D42793504DD9DFE64B77A77C0E.5.22.19-who-purdue-report-final.pdf


2. Reflects the principles for achieving a just resolution to criminal cases as embodied in 18 USC 3553. Namely that the outcome reflects the seriousness of the offense, that it provides just punishment for the offense, and that it affords adequate deterrence to criminal conduct; and
3. In no way interferes with the ability of other government entities or individuals to take civil or criminal action against Purdue Pharma or any other entity or individual associated with or connected to Purdue's criminal activities.


Thank you for your attention to this important matter and we look forward to your prompt response.


Sincerely,


Katherine Clark
Member of Congress


Max Rose
Member of Congress


Ann McLane Kuster
Member of Congress


David Trone
Member of Congress


Tim Ryan
Member of Congress

Marcy Kaptur
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Lori Trahan
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Lisa Blunt Rochester
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